

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA

ARVEN MALCOM, JR.,)	
)	4:04cv3100
Plaintiff,)	
)	MEMORANDUM AND ORDER
vs.)	
)	
CHARLES A. WOOLDRIDGE , et al.,)	
)	
Defendants.)	

This matter is before the court on filing no. 226, the Motion for Enlargement of Time filed by the plaintiff, Arven Malcom, Jr. Mr. Malcom seeks additional time until July 11, 2006 to respond to filing no. 195, the Motion for Summary Judgment filed by the remaining defendants, Reg Dallman, Colleen J. White, and Charles A. Wooldridge. Also before the court is filing no. 227, the Motion to Stay Order Setting Schedule for Progression of Case, in which the plaintiff asks for a stay of all other proceedings in this case until thirty (30) days after the court has ruled on the defendants' Motion for Summary Judgment. The plaintiff's Motions are granted in part and denied in part as discussed below.

Ordinarily, extensions of time are freely granted in a case with a pro se party. However, filing no. 195, the defendants' Motion for Summary Judgment, has been pending since February 22, 2006. The plaintiff states in filing no. 226 that he requires the additional sixty-day extension beyond the enlargements of time already received so that he may research and find materials by mental health experts regarding false allegations of sexual abuse by minors, reasons for such conduct, and problems concerning coercive questioning of minors by child care professionals resulting in false allegations of abuse.

While the plaintiff's reasons for the additional time apply to some of the grounds on which the defendants move for summary judgment, there are two potentially dispositive defenses which should be addressed before any such substantive matters are considered. First, the defendants contend that the plaintiff's claims against defendants-Charles A. Wooldridge and Reg Dallman are barred by the applicable statute of limitations. Second, the defendants assert that the plaintiff's claim against defendant-Colleen J. White fails, as a matter of law, to state a claim on which relief may be granted under the United States Constitution.

Therefore, the defendants' Motion for Summary Judgment will be divided into two parts. The first part to be addressed by the plaintiff and considered by the court will consist of the defendants' assertions that the plaintiff's claims against Wooldridge and Dallman are time-barred and that the plaintiff's claim against White fails to state a claim on which relief may be granted. The plaintiff shall have until June 15, 2006 to respond to those two

issues.

Thereafter, if Chief Judge Joseph F. Bataillon has not entered judgment in the case dismissing all defendants, the second part of filing no. 195 will be ripe for consideration. At that point, if Chief Judge Bataillon has denied summary judgment as to at least one defendant, the plaintiff shall have thirty (30) more days to submit a brief on the remaining issues raised in filing no. 195.

THEREFORE, IT IS ORDERED:

1. That filing no. 226, the plaintiff's Motion for Enlargement of Time, is granted in part and denied in part as follows: by June 15, 2006, the plaintiff shall respond to the following two issues raised in the defendants' summary judgment motion:

- a. Whether the plaintiff's claims against defendants-Charles A. Wooldridge and Reg Dallman are barred by the applicable statute of limitations; and
- b. Whether the plaintiff's claim against defendant-Colleen J. White fails, as a matter of law, to state a claim on which relief may be granted under the United States Constitution;

2. That thereafter, if Chief Judge Bataillon has not entered judgment in the case dismissing all defendants, the second part of the defendants' summary judgment motion will become ripe for consideration, and the plaintiff shall have a further extension of thirty (30) days after Chief Judge Bataillon has denied summary judgment as to at least one defendant to respond to the remaining part of filing no. 195; and

3. That filing no. 227, the Motion to Stay Order Setting Schedule for Progression of Case, in which the plaintiff asks for a stay of all other proceedings in this case until thirty (30) days after the court has ruled on the defendants' Motion for Summary Judgment, is granted.

DATED this 22nd day of May, 2006.

BY THE COURT:

s/ F.A. Gossett
United States Magistrate Judge